

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34622

STATE OF IDAHO,)	2009 Unpublished Opinion No. 507
)	
Plaintiff-Respondent,)	Filed: June 22, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
CURT D. PARROTT,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. John K. Butler, District Judge.

Order revoking probation and ordering into execution previously imposed sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before PERRY, Judge, GUTIERREZ, Judge
and GRATTON, Judge

PER CURIAM

Curt D. Parrott was charged with and pled guilty to possession of a controlled substance, methamphetamine, I.C. § 37-2732(C)(1), and the district court placed him in drug court. Parrott was transferred out of drug court and the district court imposed a unified sentence of seven years, with three years determinate, and retained jurisdiction. After Parrott completed his rider, the district court suspended the sentence and placed him on probation for three years. Parrott was sanctioned with discretionary jail time on two separate occasions, and later a probation violation was filed. The district court revoked Parrott's probation, again suspended the sentence and placed Parrott on probation for three years. Parrott again violated the terms of his probation. Parrott denied the allegations and the district court released him on bond pending the evidentiary

hearing. Parrott, in the interim, again violated the terms of his probation and the district court eventually revoked his probation and ordered the underlying sentence into execution. Parrott filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Parrott appeals from the revocation of his probation, contending that the district court abused its discretion by revoking his probation and ordering the underlying sentence into execution without reduction of sentence.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 326, 834 P.2d at 328; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 326, 834 P.2d at 328.

Sentencing is also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). When we review a sentence that is ordered into execution following a period of probation, we do not base our review upon the facts existing when the sentence was imposed. Rather we examine all the circumstances bearing upon the decision to revoke probation and require execution of the sentence, including events that occurred between the original pronouncement of the sentence and the revocation of probation.

Adams, 115 Idaho at 1055, 722 P.2d at 262; *State v. Grove*, 109 Idaho 372, 373, 707 P.2d 483, 484 (Ct. App. 1985); *State v. Tucker*, 103 Idaho 885, 888, 655 P.2d 92, 95 (Ct. App. 1982).

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion when it revoked probation and ordered execution of Parrott's original sentence without modification. Therefore, the order revoking probation and directing execution of Parrott's previously suspended sentence is affirmed.